

1                   **IN THE UNITED STATES DISTRICT COURT OF THE VIRGIN ISLANDS**  
2                   **DISTRICT OF ST. THOMAS AND ST. JOHN**

\*\*\*\*\*

3                   **JUDITH KROMENHOEK,**

4                   )                   **CIVIL NO. \_\_\_\_\_/2012**

5                   )                   **Plaintiff,**

6                   )                   **Action for: Housing  
7                   )                   Discrimination; Discrimination  
8                   )                   Based on Disability; Invasion of  
9                   )                   Privacy; Negligent Infliction of  
10                  )                   Emotional Distress; Intentional  
11                  )                   Infliction of Emotional Distress;  
12                  )                   Prima Facie Tort;  
13                  )                   Punitive Damages; and Injunctive  
14                  )                   and Declaratory Judgment**

      v.

15                  )                   **COWPET BAY WEST CONDOMINIUM  
16                  )                   ASSOCIATION: THE BOARD OF THE  
17                  )                   COWPET BAY WEST CONDOMINIUM  
18                  )                   ASSOCIATION; ED WARDWELL,  
19                  )                   MAX HARCOURT; BILL CANFIELD,  
20                  )                   ROSIE WELLS, SHARON KOEHLER,  
21                  )                   DOUG REBAK and HERB HORWITZ as  
22                  )                   Board members; MAX HARCOURT,  
23                  )                   in his personal capacity; LANCE  
24                  )                   TALKINGTON; ALFRED FELICE,  
25                  )                   ROBERT COCKAYNE, and  
26                  )                   VINCENT VERDIRAMO**

27                  )                   **Defendants.**

28                  )                   **JURY TRIAL DEMAND**

15                   **VERIFIED COMPLAINT**

16                  **COMES NOW,** Plaintiff **JUDITH KROMENOEK**, by and through her undersigned  
17                  counsel, the **LAW OFFICES OF KARIN A. BENTZ, P.C.**, (Karin A. Bentz Esq., and Julita K.  
18                  de León, Esq., of Counsel) and for a Complaint against the Defendants in the above captioned action  
19                  states and alleges as follows:

20                   **PRELIMINARY STATEMENT**

21                  1.       Over twenty years after Congress passed one of our nation's landmark civil rights law  
22                  for people with disabilities, Defendants still maintain barriers that prevent persons with disabilities  
23                  from the full, independent and equal enjoyment of housing at Cowpet Bay Condominium.

24                  2.       Defendants have been and are in violation of federal civil rights laws pertaining to  
25                  housing and disability, in that they have failed to comply with the federal nondiscrimination statutes.

26                  3.       Defendants have discriminated and continue to discriminate against Plaintiff in many

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3      ways, including but not limited to failing to make reasonable accommodate in its practice, rules and  
 4      regulations so that Plaintiff can keep her emotional support dog without being fined daily.

5          4.      This action is brought by the Plaintiff, Judith Kromenhoek ("Plaintiff") a member of  
 6      the Cowpet Bay West Condominium Association. This action arises under the provisions of the  
 7      Civil Rights Act of 1968, §§ 802(h), 804(f)(3)(B), 42 U.S.C. §§3602(h), 3604(f)(3)(B); 42 U.S.C.  
 8      §§ 3601-3619 (hereinafter the "Fair Housing Amendments Act, FHAA"); Americans with  
 9      Disabilities Act of 1990, 42 U.S.C.. §§ 12101-12212 (hereinafter the "ADA"); and other laws and  
 10     policies of the United States and the Territory of the Virgin Islands.

#### JURISDICTION AND VENUE

13        5.      This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§  
 14     1331, 1332 and §1337; and V.I. Code ANN. tit. 4, §32.

15        6.      Venue is proper within this District pursuant to 28 U.S.C. §1391(b).

#### PARTIES

18        7.      Plaintiff, Judith Kromenhoek is a resident of St. Thomas, United States Virgin  
 19     Islands.

20        8.      Upon information and belief, Defendant Cowpet Bay West Condominium  
 21     Association is an entity organized pursuant to the Virgin Islands Condominium Act, V.I. CODE  
 22     ANN. tit 28, §901 *et seq.* as amended that resides and operates its principal place of business in St.  
 23     Thomas, U.S. Virgin Islands.

24        9.      The Declaration for Defendant Cowpet Bay West Condominium Association is  
 25     recorded in the Office of the Recorder of Deeds, St. Thomas, U.S. Virgin Islands.

26        10.     Defendant Cowpet Bay West Condominium Association, is operated and controlled by  
 27     a Board of elected persons. The Board is authorized by the Virgin Islands Condominium Act and

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the Declarations of the Cowpet Bay West Condominium Association, with its purpose set forth more fully in Bylaw Article 1, Section 2. The members of the Board are elected by the homeowners of the Cowpet Bay West Condominiums.

11. Based upon information and belief Defendant Alfred Felice is a resident of Plainview, New York..

12. Based upon information and belief Defendant Max Harcourt is a resident of St. Thomas, United States Virgin Islands.

13. Based upon information and belief Defendant Lance Talkington is a resident of St. Thomas, United States Virgin Islands.

14. Based upon information and belief Defendant Robert Cockayne is a resident of St. Thomas, United States Virgin Islands.

15. Based upon information and belief Defendant Vincent Verdiramo is a resident of St. Thomas, United States Virgin Islands.

## **STATEMENT OF FACTS**

16. Cowpet Bay West Condominium is an upscale Condominium Community located on the east side of St. Thomas, on or near Cowpet Bay, St. Thomas, Virgin Islands.

17. Plaintiff and her husband own unit W-44 in the Cowpet Bay West Condominium complex.

18. Plaintiff sat on the Board of the Cowpet Bay West Condominium Association Board and also served as the President at one time.

19. Plaintiff as owner of a Cowpet Bay West Condominium is subject to the Cowpet Bay West Condominium Association Declarations and Bylaws, as designated above in paragraph 10 and the Rules of the Cowpet Bay West Condominium Board attached here as **Exhibits, A and B** respectively.

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3            20. In 2011, the Bylaws of the Cowpet Bay West Condominium Association did not  
4 prohibit dogs on the premises.

5            21. The Rules and Regulations of the Cowpet Bay West Condominium Association  
6 prohibited dogs on the premises.

7            22. Upon information and belief, the Rules and Regulations of the Cowpet Bay West  
8 Association did not provide a written procedure by which one can apply for a reasonable  
9 accommodation either under the ADA or the FHAA.

10          23. Plaintiff suffers from a medical condition and in May of 2011, Plaintiff obtained an  
11 emotional service dog pursuant to her doctor's advice. Plaintiff acquired the dog in the Continental  
12 United States.

13          24. In July of 2011, when Plaintiff returned to St. Thomas, Plaintiff submitted to Louanne  
14 Schecter, the Cowpet Bay West Condominium Association Officer Manger, information about her  
15 dog's qualification as an emotional support animal and a letter from Plaintiff's doctor, Dr. Sheena  
16 M. Walker, Ph.D discussing Plaintiff's diagnosis and recommending the dog to alleviate adverse  
17 symptoms associated with Plaintiff's illness.

18          25. The documents were submitted to Louanne Schecter as Plaintiff's formal request for  
19 reasonable accommodation.

20          26. In addition to her reasonable accommodation application, Plaintiff also gave Louanne  
21 Schecter a framed copy of the ADA. Upon information and belief, Louanne Schecter hung the  
22 framed copy of the ADA in the Cowpet Bay West Condominium Association's business office.

23          27. Upon information and belief, the Cowpet Bay West Condominium Association Board  
24 took no formal action on Plaintiff's reasonable accommodation application.

25          28. Upon information and belief, Max Harcourt, the then President of the Cowpet Bay  
26 West Condominium Board took down the framed copy of the American with Disabilities Act that  
27 hung in the Cowpet Bay West Condominium Association business office and said that "we go by  
28

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3      Cowpet Bay rule not by ADA."

4            29. After filing her request for reasonable accommodation, members of the Association  
5      began complaining about the presence of dogs in the Community and the need to enforce the NO  
6      DOGS RULE. Some members, specifically Alfred Felice, Max Harcourt, Lance Talkington, Robert  
7      Cockayne and Max Veridromo went on a public campaign to humiliate, intimidate, discredit and  
8      harass Plaintiff for requesting a reasonable accommodation for Plaintiff' emotional support dog.

9            30. As part of the campaign to harass and intimidate Plaintiff, some members of the  
10     Cowpet Bay West Condominium Association requested to review Plaintiff's reasonable  
11     accommodation request although they were not current Cowpet Bay West Condominium Association  
12     Board members. Members of the Cowpet Bay West Condominium Association and some Cowpet  
13     Bay West Board members blogged about the authenticity of Plaintiff's request and refer to Plaintiff's  
14     emotional support dog as a "sham pet."

15           31. Plaintiff faced open hostility from members of the Cowpet Bay West Condominium  
16     Association and Cowpet Bay West Condominium Board for submitting an application for reasonable  
17     accommodation for Plaintiff's emotional support dog. Plaintiff continues to face hostility.

18           32. To stave off some of the harassment and hostility, Plaintiff spoke Max Harcourt and  
19     invited him to review her request for reasonable accommodation, which had been pending for more  
20     than five months in the Cowpet Bay West Condominium Association business office. Plaintiff  
21     requested that Max Harcourt signs a waiver because Plaintiff was told that Max Harcourt previously  
22     reviewed Barbara Walters' application and discussed and shared the content of the file with persons  
23     that were not on the Cowpet Bay West Condominium Board.

24           33. Max Harcourt reviewed Plaintiff's reasonable accommodation application and  
25     discussed the content of the Plaintiff's reasonable application file with Lance Talkington, although  
26     he is not a member of the Board. Max Harcourt refused to sign a waiver. Upon information and  
27     belief, Max Harcourt represented to Louanne Schecter that Plaintiff gave him permission to review  
28

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3      her application. Max Harcourt was allowed to review the application but subsequently shared the  
4      content of the application with at least Lance Talkington.

5            34. Lance Talkington discussed the content of Plaintiff's reasonable application on the  
6      Cowpet Bay Blog (the "blog"). As a result, the content of Plaintiff's reasonable application was  
7      mocked and ridiculed on the blog

8            35. The public ridicule and threats came mostly from Lance Talkington and Alfred Felice  
9      Lance Talkington along with Alfred Felice publicly denounced Plaintiff for having an emotional  
10     support animal on the premises and questioned the legitimacy of Plaintiff's reasonable  
11     accommodation application on the blog. They both ridiculed Plaintiff for submitting an application  
12     for reasonable accommodation and even went as far to suggest that Plaintiff's reasonable  
13     accommodation request is baseless.

14           36. On or around October of 2011, Max Harcourt responded to an email from the blog  
15     in which Plaintiff and Barbara Walters were specifically targeted for ridiculed and for having  
16     emotional support dogs on the premises. Lance Talkington, Alfred Felice and others clamored for  
17     the Cowpet Bay West Condominium Board to "do something about the dog lovers on the premises."

18           37. Max Harcourt responded by posting the letter, which was addressed to Plaintiff and  
19     Barbara Walters on the blog. **Exhibit C.**

20           38. In his letter, Max Harcourt accused Plaintiff of violating the NO DOGS RULE of the  
21     Cowpet Bay West Rules and Regulations. Despite acknowledging that Plaintiff "had papers in the  
22     office" regarding service dogs, Max Harcourt asked that Plaintiff submit an additional application,  
23     although neither the Bylaws nor the Rules and Regulations provides any written guidance as to how  
24     to apply for a reasonable accommodation.

25           39. Upon information and belief, Alfred Felice blogged that Plaintiff be fined  
26     significantly, be ostracized in the Cowpet Bay West Condominium community or be encouraged to  
27     move out of the community.

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3            40.     Lance Talkington and Alfred Felice continued to harass and to attack Plaintiff and  
4     Barbara Walters for filing a reasonable accommodation pursuant to the FHAA and the ADA. They  
5     referred to Plaintiff and Barbara Walters as "shrill" and as the "coven."

6            41.     On or around January 16, 2012, Alfred Felice sent out an email to more than 50  
7     people Cowpet Bay West Condominium Association members informing them that the "ADA law  
8     does not prevent a community from excluding DOGS.

9            42.     On or around January 19, 2012, the Cowpet Bay West Condominium Board met and  
10     voted to start assessing fines to owners in "violation of the NO DOGS RULE." The fines are  
11     \$50.00 per day for owners who are in violation of the NO DOGS RULE.

12          43.     Upon information and belief, in February of 2012, the Cowpet Bay West  
13     Condominium Board voted to include the "NO DOGS RULE in its Bylaws but did not provide for  
14     an exception for neither the ADA and or the FHAA. Also, the Cowpet Bay West Condominium  
15     Association did not adopt a procedure by which a member can apply for a reasonable  
16     accommodation, nor did it adopt a Reasonable Accommodation Policy.

17          44.     The Cowpet Bay West Condominium Board has taken no action on Plaintiff's request  
18     for reasonable accommodation although the request was submitted in July of 2011. However,  
19     Plaintiff has been fined and continues to be fined \$50.00 per day by the Cowpet Bay West  
20     Condominium Board for having an emotional support dog on the premises.

21          45.     Despite pleas by Plaintiff and upon her behalf, the Cowpet Bay West Condominium  
22     Board has refused to grant Plaintiff and opportunity to present any statement, evidence, or witness  
23     in support of her application for a reasonable application. The Cowpet Bay West Condominium  
24     Association continues to claim improper fines against Plaintiff and continues to ban Plaintiff's  
25     emotional support dog from Plaintiff's home.

26

27

28

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**COUNT I: VIOLATION OF THE FHAA**  
**(Against Defendants Cowpet Bay West Condominium Association  
Cowpet Bay West Condominium Board)**

46. Plaintiff realleges and incorporates by reference the remainder of the allegations set forth herein.

47. 42 U.S.C. §3604(f)(3)(b), commonly known as the Fair Housing Act Amendment (FHAA), prohibits housing providers from discriminating against applicants or residents because of their disability and from treating persons with disabilities less favorably than others because of their disability.

48. The FHAA also makes it unlawful for any person to refuse "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford persons with disabilities equal opportunity to use and enjoy a dwelling.

49. Defendant Cowpet Bay West Condominium Association owns, operates and/or leases condominium in Cowpet Bay West.

50. Cowpet Bay West is a place of public accommodation. 42 U.S.C §§3601-3619.

51. Defendant Cowpet Bay West Condominium Association knew or reasonably should have known of Plaintiff's disability.

52. Defendants Cowpet Bay West Condominium Association and Cowpet Bay West Condominium Board have discriminated against Plaintiff by denying Plaintiff as a person with a disability, the equal opportunity to use and enjoy a dwelling on the basis of disability. Defendants' discriminatory conducts include but is not limited to;

- a. Discriminatory exclusion and or denial of services, privileges, accommodations, and/or opportunities in Defendant Cowpet Bay West Condominium Board Rules and Regulations.
- b. Failing to make reasonable modifications in policies, practices, and/or procedures as necessary to afford the privileges, advantages, and/or accommodations of Cowpet

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3                Bay West to Plaintiff.

4                c. Failing to act upon and/or refusing Plaintiff's request for reasonable accommodation.  
5                d. Failing to remove barriers to individuals with disabilities where it would be readily  
6                achievable to do so.  
7                e. Failing to adopt an exception to its NO DOGS RULE and or a reasonable  
8                accommodation policy so that Plaintiff and other individuals with disabilities have  
9                equal opportunity to use and enjoy a dwelling at Cowpet Bay West.  
10               f. Adopting rules and regulations that have a desperate impact on Plaintiff and others  
11               like her that suffer from a disability and require the use of an emotional support  
12               animal.  
13               g. Failing to make a reasonable accommodation in rules, practice, and services after  
14               learning of Plaintiff's disability.

15               53. As such Defendants discriminate and will continue to discriminate in the future  
16               against Plaintiff on the basis of disability in the full and equal enjoyment of the goods, privileges,  
17               facilities accommodations, advantages and/or opportunities of Cowpet Bay West in violation of the  
18               Civil Rights Act of 1968, §§802(h), 8049f(3)(B), 42 U.S.C. §§3602(h), 3604(f)(3)(B) and or their  
19               implementing rules and regulations.

20               54. Defendants violations of the FHAA and the Civil Rights Act of 1968 have harmed  
21               and will continue to harm Plaintiff in the future.

22               55. Pursuant to the remedies, procedures and rights set forth in 42 U.S.C §3614 (d)(1)  
23               and (2), Plaintiff prays for judgment as set forth below.

25               **COUNT II: VIOLATION OF SECTION 3617 OF THE FHAA**  
26               (Max Harcourt)

27               56. Plaintiff re-alleges and incorporates all preceding paragraphs herein by reference as  
28               though fully restates, wholly, in this Count.

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3      57. Max Harcourt is a member of the Cowpet Bay West Condominium Association and  
4      was the President, at the time Plaintiff applied for a reasonable accommodation.

5      58. Max Harcourt, individually, vitiated Plaintiff's request for reasonable accommodation  
6      by insisting that the Cowpet Bay West Condominium Association Bylaws trumped the FHAA.

7      59. Max Harcourt joined Lance Talkington and others to publicly ridicule the content  
8      of Plaintiff's request for reasonable accommodation on the blog.

9      60. Section 3617 of the FHAA inter alia makes it unlawful for any person to coerce,  
10     intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of  
11     his having exercised or enjoyed, or on account of his having aided or encouraged any other person  
12     in the exercise or enjoyment of, any right granted or protected by Section 803, 804, 805, 806 of this  
13     title.

14     61. Max Harcourt violated Section 3617 of the FHAA by interfering with Plaintiff in her  
15     exercise of the right granted or protected by Sections 803, 804, 805, 806 of the FHAA.

16     62. Defendant Max Harcourt's violations of the FHAA have harmed and will continue  
17     to harm Plaintiff.

18     63. Pursuant to the remedies, procedures and rights set forth in 42 U.S.C §3614 (d)(1)  
19     and (2), Plaintiff prays for judgment as set forth below.

20     64. In doing the acts and/or omissions alleged herein, Max Harcourt wrongfully and  
21     unlawfully interfered with Plaintiff's exercise of her right to reasonable accommodation and acted  
22     with knowledge of the effect his conduct was having on Plaintiff.

24                   **COUNT III: VIOLATION OF SECTION 3617 OF THE FHAA**  
25                   **(Cowpet Bay West Condominium Association)**

26     65. Plaintiff incorporates all proceeding paragraphs herein by reference as though  
27     fully restated, wholly, in the Count.

28     66. Defendant Cowpet Bay West Condominium Association was created pursuant to

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3     Chapter 28 of the Virgin Islands Code and as such is obligated to comply with the provisions of  
 4     the FHAA.

5         67.     The conduct alleged herein violates the FHAA, including §3617 et seq.

6         68.     Section 3617 of the FHAA inter alia makes it unlawful for any person to coerce,  
 7     intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of  
 8     his having exercised or enjoyed, or on account of his having aided or encouraged any other  
 9     person in the exercise or enjoyment of, any right granted or protected by Section 803, 804, 805,  
 10    806 of this title.

11         69.     Defendant Cowpet Bay West Condominium Association violated Section 3617 of  
 12    the FHAA by interfering with Plaintiff's request for reasonable accommodation. Defendant  
 13    Cowpet Bay West Condominium Association also violated Section 3617 of the FHAA by  
 14    attacking Plaintiff's credibility and character on the blog. This is design to intimidate Plaintiff  
 15    and to coerce Plaintiff against exercising her right to request a reasonable accommodation.

16         70.     Defendant Cowpet Bay West Condominium Association's violations of the  
 17    FHAA have harmed and will continue to harm Plaintiff.

18         71.     Pursuant to the remedies, procedures and rights set forth in 42 U.S.C §3614  
 19    (d)(1) and (2), Plaintiff prays for judgment as set forth below.

21                     **COUNT IV: VIOLATION OF SECTION 3217 OF THE FHAA**  
 22                             **(Alfred Felice)**

23         72.     Plaintiff re alleges and incorporates by reference all preceding paragraphs herein as  
 24    though fully restated, wholly, in the Count.

25         73.     Defendant Alfred Felice is a an owner of a Condominium unit at Cowpet Bay West  
 26    and a member of the Cowpet Bay West Association.

27         74.     Defendant Alfred Felice began interfering with Plaintiff on the Cowpet Bay Blog  
 28    once he learned that Plaintiff had requested reasonable accommodation for an emotional support

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3 animal, her dog.

4       75.      Defendant Alfred Felice interfered with Plaintiff's right to request reasonable  
 5 accommodation by using the blog to discredit Plaintiff and to attack Plaintiff's character.  
 6 Defendant Alfred Felice's actions were designed to intimidate Plaintiff so that Plaintiff can  
 7 relinquish Plaintiff's right to request a reasonable accommodation for an emotional support animal.

8       76.      Section 3617 of the FHAA inter alia makes it unlawful for any person to coerce,  
 9 intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of  
 10 his having exercised or enjoyed, or on account of his having aided or encouraged any other person  
 11 in the exercise or enjoyment of, any right granted or protected by Section 803, 804, 805, 806 of this  
 12 title.

13       77.      Defendant Alfred Felice violated Section 3617 of the FHAA by interfering with  
 14 Plaintiff's exercise of her right to request for a reasonable accommodation.

15       78.      Defendant Alfred Felice violation of the FHAA has harmed and will continue to harm  
 16 Plaintiff.

17       79.      Pursuant to the remedies, procedures and rights set forth in 42 U.S.C §3614 (d)(1)  
 18 and (2), Plaintiff prays for judgment as set forth below.

20                   **COUNT V: VIOLATION OF SECTION 3217 OF THE FHAA**  
 21                   **(Lance Talkington)**

22       80.      Plaintiff re alleges and incorporates by reference all preceding paragraphs herein as  
 23 though fully restated, wholly, in the Count.

24       81.      Upon information and belief Defendant Lance Talkington owns at least one  
 25 Condominium unit at Cowpet Bay West and is a member of the Cowpet Bay West Condominium  
 26 Association.

27       82.      Upon information and belief Defendant Lance Talkington runs the blog and used the  
 28 blog to attack Plaintiff and others who applied for a reasonable accommodation.

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3       83.    Defendant Lance Talkington's actions were designed to intimidate and to bully  
4 Plaintiff from seeking a reasonable accommodation for Plaintiff's emotional support dog.

5       84.    Defendant Lance Talkington interfered with Plaintiff's exercise of her right to request  
6 a reasonable accommodation by attacking Plaintiff's character and the authenticity of the documents  
7 submitted as part the reasonable accommodation application.

8       85.    Defendant Lance Talkington interfered with Plaintiff's exercise of her right to request  
9 a reasonable accommodation by discussing Plaintiff's medical records on the blog.

10      86.    Defendant Lance Talkington's actions were design to coerce Plaintiff into not  
11 exercising her right to request a reasonable accommodation.

12      87.    Defendant Lance Talkington's action was designed not only to humiliate Plaintiff  
13 but to get Plaintiff to walk away from Plaintiff's reasonable accommodation application.

14      88.    The conduct herein violates the FHAA, including Section 3617 of the FHAA.

15      89.    Section 3617 of the FHAA inter alia makes it unlawful for any person to coerce,  
16 intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of  
17 his having exercised or enjoyed, or on account of his having aided or encouraged any other person  
18 in the exercise or enjoyment of, any right granted or protected by Section 803, 804, 805, 806 of this  
19 title.

20      90.    Defendant Lance Talkington violated the FHAA, inter alia, by interfering with  
21 Plaintiff's exercise of her right to request a reasonable accommodation. Defendant Lance Talkington  
22 violated the FHAA by, inter alia, interfering with Plaintiff's rights to request a reasonable  
23 accommodation and by using the blog to intimidate and to coerce Plaintiff into not exercising her  
24 right to request a reasonable accommodation.

25      91.    Defendant Lance Talkington's violations of the FHAA have harmed and will continue  
26 to harm Plaintiff in the future.

27      92.    Pursuant to the remedies, procedures and rights set forth in 42 U.S.C §3614 (d)(1)

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3 and (2), Plaintiff prays for judgment as set forth below.

4

5     **COUNT VI: VIOLATION OF THE AMERICAN WITH DISABILITIES ACT**  
 6     **(Cowpet Bay West Condominium Association and Cowpet Bay West**  
      **Condominium Association Board of Directors)**

7     93. Plaintiff realleges and incorporates by reference all preceding paragraphs herein as  
 8 though fully restated, wholly, in the Count.

9     94. Title III of the ADA provides that "No individual shall be discriminated against on  
 10 the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
 11 advantages, or accommodations of any place of public accommodation by any person who owns,  
 12 leases, or operates a place of public accommodation."

13     95. Defendants owns, operates, leases and/or leases condominium units in Cowpet Bay,  
 14 St. Thomas, Virgin Islands.

15     96. Cowpet Bay West Condominium is a place of public accommodation. 42 U.S.C.  
 16 §12181(7)(B).

17     97. Defendants have discriminated against Plaintiff on the basis of disability. Defendants  
 18 discriminatory conducts include but is not limited to

- 19       a. Discriminatory exclusion and/or denial of goods, services, facilities, privileges,  
 20           advantages, accommodations, and/or opportunities.
- 21       b. Failing to make reasonable modifications in policies, practices, and/or procedures as  
 22           necessary to afford the goods, services, facilities, privileges, advantages, and/or  
 23           accommodations of the Cowpet Bay West Condominium to Plaintiff based on  
 24           Plaintiff's disabilities.
- 25       c. Failing to remove barriers where it would be readily achievable to do so that Plaintiff  
 26           and others with disabilities may enjoy the privilege of owning a Condominium unit  
 27           at Cowpet Bay West.

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3            d. Failing to adopt a NO DOGS RULE with an exception that allows for the  
4            implementation of the ADA; and failing to adopt a Reasonable Accommodation  
5            Policy.

6            E. For allowing private rules and regulations to trump the provision of the ADA that  
7            requires reasonable accommodation.

8            98. As such Defendants discriminate against Plaintiff and will continue in the future to  
9            discriminate against Plaintiff on the basis of disability in the full, and equal enjoyment of the goods,  
10          services, facilities, privileges, advantages, accommodations and/or opportunities of Cowpet Bay  
11          West Condominium in violation of Title III of the American with Disabilities Act, 42 U.S.C. §12181  
12          et seq. and/or its implementing regulations.

13            99. Defendants violation of the ADA has harmed and will continue to harm Plaintiff.

14            100. Pursuant to the remedies, procedures, and rights set forth in 42 U.S.C. §12188,  
15          Plaintiff prays for judgment as set forth below.

16

17            **COUNT VII: THE COWPET BAY WEST CONDOMINIUM  
BOARD EXCEEDED ITS AUTHORITY BY ADOPTING THE NO DOGS RULE**

18            101. Plaintiff incorporates all preceding paragraphs herein by reference as though fully  
19          restated, wholly, in the Count.

20            102. Defendant Cowpet Bay West Condominium Association adopted Bylaws pursuant  
21          to Chapter 33, of Title 28 of the Virgin Islands Code.

22            103. At the time Plaintiff requested a reasonable accommodation for her dog, the Bylaws  
23          of Defendant Cowpet Bay West Condominium Association placed no restrictions on dogs on the  
24          Cowpet Bay West premises.

25            104. The Defendant Cowpet Bay West Condominium Board adopted rules and regulations,  
26          which are more restrictive than the Bylaws and places a restriction on the condominium owners'  
27          right to own an animal, including emotional support dogs in a manner not contemplated by the

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3     Bylaws.

4         105. The Defendant Cowpet Bay West Condominium Board acted outside the scope of  
5         their power when they adopted rules that are more restrictive than the Bylaws.

6         106. As a result of the Defendant Cowpet Bay West Condominium Board implementing  
7         this invalid rule, Plaintiff has suffered damages and losses, and will continue to suffer loss and  
8         damages, including but not limited to emotional distress, financial loss and other losses for which  
9         Defendant Cowpet Bay West Condominium Board is liable.

10

11                     **COUNT VIII: COWPET BAY WEST CONDOMINIUM**  
12                     **BOARD ACT OF ASSESSING A FINE WAS ULTRA VIRES**

13         107. Plaintiff incorporates all preceding paragraphs herein by reference as though fully  
14         restated, wholly, in the Count.

15         108. Defendant Cowpet Bay West Condominium Association adopted Bylaws pursuant  
16         to Chapter 33, of Title 28 of the Virgin Islands Code.

17         109. At the time Plaintiff requested a reasonable accommodation for her dog, the Bylaws  
18         of Defendant Cowpet Bay West Condominium Association placed no restrictions on dogs on the  
19         Cowpet Bay West premises.

20         110. The Defendant Cowpet Bay West Condominium Board adopted rules and regulations,  
21         which are more restrictive than the Bylaws. The Rules and Regulations places a restriction on the  
22         condominium owners' right to own an animal, including emotional support dogs in a manner not  
23         contemplated by the Bylaws.

24         111. The Defendant Cowpet Bay West Condominium Board acted outside the scope of  
25         their power when they adopted rules that are more restrictive than the Bylaws.

26         112. Defendant Cowpet Bay West Condominium Board began assessing a \$50.00 per day  
27         fine for violating the NO DOGS RULE.

28

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3       113. Defendant Cowpet Bay West Condominium Board had no basis upon which to assess  
 4       the \$50.00 per day fine as the NO DOGS RULE exceeded its authority.

5       114. Defendant Cowpet Bay West Condominium Board acted ultra vires when it assessed  
 6       the \$50.00 per day fine.

7       115. As a result of the Defendant Cowpet Bay West Condominium Board's ultra vires  
 8       action, Plaintiff suffered damages and losses, and will continue to suffer loss and damages,  
 9       including but not limited to emotional distress, financial loss and other losses for which Defendant  
 10      Cowpet Bay West Condominium Board is liable.

11

12      **COUNT IX: INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS**  
 13      **( Alfred Felice)**

14       116. Plaintiff incorporates all preceding paragraphs herein by reference as though fully  
 15       restated, wholly, in the Count.

16       117. Defendant Alfred Felice acted intentionally and recklessly when he suggested on the  
 17       blog that Plaintiff's emotional service dog was a "sham pet" and when he recommended to Cowpet  
 18       Bay West Condominium Association members that Plaintiff be "ostracized, NO dinner dates, no  
 19       patronage of their establishments, no conversations, no beach conclaves, just ignore them  
 20       completely!!!"

21       118. Defendant Alfred Felice conduct publicly attacking Plaintiff's character and  
 22       mischaracterizing's Plaintiff's motives for applying for a reasonable accommodation are extreme  
 23       and outrageous.

24       119. As a result of Defendant's outrageous conducts Plaintiff has suffered severe mental  
 25       anguish, shame, humiliation, embarrassment, worry and nausea.

26       120. As a result of Defendant Alfred Felice's extreme and outrageous conducts, Plaintiff  
 27       has suffered severe emotional distress and will continue to suffer severe emotional distress and other  
 28       damages for which Defendant Alfred Felice is personally liable for compensatory and punitive

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3      damages to Plaintiff.

5      **COUNT X: CONSPIRACY TO COMMIT AN UNAUTHORIZED ACT**  
6      (Against all individual Defendants in their personal capacities)

7      121. Plaintiff repeats and re-alleges all preceding paragraphs as though fully restated,  
8      wholly, in this Count.

9      122. All individual defendants, through and among themselves, have conspired with each  
10     other, and acted in concert, to violate the FHAA and deny Plaintiff her request for reasonable  
11     accommodation, without authority, to deprive her of protected rights and interests, to defame her,  
12     to cause her emotional distress and suffering, and to deprive her full enjoyment of the goods,  
13     services, facilities, privileges, advantages, accommodations and/or opportunities of Cowpet Bay  
14     West.

15     123. Defendants' acts and omissions as aforesaid are overt acts in furtherance of their  
16     conspiracy, and taken together constitute a civil conspiracy to harm Plaintiff and to deny her civil  
17     rights under the FHAA and the ADA.

18     124. As a direct and proximate result of the foregoing, Plaintiff has suffered damages,  
19     losses, and severe emotional distress, for which said defendants are jointly and severally liable.

20      **COUNT XI: PRIMA FACIE TORT CLAIM**

21     125. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
22     re-stated, wholly, in the Count.

23     126. The Defendants through their wrongful violations of, inter alia, the FHAA and the  
24     ADA, caused Plaintiff to be improperly deprived of reasonable accommodation.

25     127. None of the Defendants had an objective justification for depriving Plaintiff of the  
26     aforementioned civil right.

27     128. Defendants' acts and omissions as aforesaid were such that they offend common

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3        decency and sensibilities.

4        129. As a direct and proximate result of Defendants' wrongful and illegal acts and  
 5        omissions, as aforesaid, Plaintiff was defamed, suffered loss of reputation, mental anguish, pain and  
 6        suffering and loss of enjoyment of life. In addition, Plaintiff is assessed a daily monetary fined and  
 7        has and will continue to suffer losses and damages for which Defendants are liable.

8

**COUNT XII: COWPET BAY WEST CONDOMINIUM BOARD'S ACTION IS VOID**

9

10      130. Plaintiff incorporates all preceding paragraphs herein by reference as though fully  
 11        restated, wholly, in the Count.

12      131. Because the Cowpet Bay West Condominium Board exceeded its authority when it  
 13        adopted the NO DOGS RULE each and every subsequent action taken by the Cowpet Bay West  
 14        Condominium Board pursuant to the NO DOGS RULE is *void ad initio*. These actions include but  
 15        are not limited to:

- 16        a.        the daily fines levied upon Plaintiff;
- 17        b.        the intentional publication of false and wrongfully imposed fines, penalties and or  
                 late charges in its monthly invoices;
- 18        c.        the letter posted on the blog that Plaintiff and Barbara Walters violated the NO  
                 DOGS RULE and continues to violate the NO DOGS RULE.

19

20      132. The actions of the Cowpet Bay West Condominium Board described above have  
 21        damaged Plaintiff.

22

**COUNT XIII: COWPET BAY WEST CONDOMINIUM BOARD WAS NEGLIGENT**

23

24      134. Plaintiff repeats and re-alleges all preceding paragraphs as though fully restated,  
 25        wholly, in this Count.

26

- 27        135. The Cowpet Bay West Condominium Board was negligent for posting a letter, which

28

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3      was addressed to Plaintiff and Barbara Walters on the blog labeling Plaintiff and Barbara Walters  
4      violators of the NO DOG RULES contrary to safeguards plainly and unambiguously set forth in the  
5      Bylaws such that each and every subsequent action taken by the Cowpet Bay West Condominium  
6      Board pursuant thereto is *void ab initio*. These actions include but are not limited to:

7            a.     posting the letter on the blog wherein Plaintiff and Barbara Walters were found to  
8                        be in violation of the NO DOGS RULE.

9            b.     the daily fines levied upon Plaintiff;

10          c.     the negligent publication of false and wrongfully imposed fines, penalties and or late  
11                charges;

12          136.   The negligence of the Cowpet Bay West Condominium Board described above has  
13                damaged Plaintiff

14

15                **COUNT XIV: DEFAMATION AND SLANDER PER SE**  
16                (All Defendants individually named)

17          137.   Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
18                re-stated, wholly, in the Count.

19          138.   Defendants Lance Talkington, Max Harcourt, Alfred Felice, Robert Cockayne and  
20                Vincent Verdiramo, wilfully and intentionally published false and wrongful information on the blog  
21                and other venues.

22          139.   The above described information is false and injurious as to Plaintiff. It lowers the  
23                professional and personal reputation of Plaintiff in the Cowpet Bay West community, as it was  
24                understood by the members thereof, and such publications were calculated to elicit that very response  
25                from that respected community.

26          140.   These intentional and reckless acts of defamation constitute Libel and Slander per se  
27                from which Plaintiff has suffered injuries.

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3 **COUNT XV: NEGLIGENT AND/OR INTENTIONAL**  
4 **INFILCTION OF EMOTIONAL DISTRESS**

5 141. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
re-stated, wholly, in the Count.

6 142. By their extreme and outrageous conducts directed at Plaintiff, Defendants, Cowpet  
7 Bay West CondominiumBoard, Lance Talkington, Max Harcourt, Robert Cockayne and Vincent  
8 Verdiramo have intentionally, or alternatively by way of gross negligence or negligence, caused the  
9 infliction of severe emotional distress by:

- 10 a. The Cowpet Bay West Condominium Board refusing to provide Plaintiff with a  
11 reasonable accommodation for Plaintiff's emotional support animal; publishing on  
12 the blog that Plaintiff violated the NO DOGS RULE; and imposing unreasonable  
13 and egregious fines, penalties and or interests against Plaintiff;
- 14 b. Lance Talkington, Max Harcourt, Robert Cockayne and Vincent Verdiramo: by  
15 posting or sending vengeful, malicious, grossly negligent and or negligent blogs and  
16 or emails to force Plaintiff to withdraw her application for a reasonable  
17 accommodation without consideration for Plaintiff's statutory rights under the FHAA  
18 and the ADA; and
- 19 c. Lance Talkington, Max Harcourt, Robert Cockayne and Vincent Verdiramo: by  
20 public ridicule and mockery of Plaintiff for exercising her statutory right to apply for  
21 a reasonable accommodation pursuant to the ADA and FHAA when the Cowpet Bay  
22 West Condominium Board failed to provide a written policy and or procedure for  
23 applying for reasonable accommodation.

24 143. These intentional, grossly negligent and negligent acts of Defendants have caused  
25 Plaintiff severe emotional distress, as Plaintiff fears being displaced from her home, has been  
26 ridiculed by her community, ostracized in her community and suffers professional loss of credibility.

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3 **COUNT XVI: INVASION OF PRIVACY:**  
4 **PUBLIC DISCLOSURE OF PRIVATE FACTS**  
(Cowpet Bay West Board of Directors)

5 144. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
6 re-stated, wholly, in the Count.

7 145. Defendant, Cowpet Bay West Board disclosed private information  
8 concerning Plaintiff when it openly discussed Plaintiff's application for a reasonable  
9 accommodation, including Plaintiff's medical condition and emotional support animal's registration  
10 at the Cowpet Bay West Condominium Board meeting and posted a letter addressed to Plaintiff and  
11 Barbara Walters on the blog accusing Plaintiff of violating the NO DOGS RULE.

12 146. Plaintiff considered the publicity highly offensive and a reasonable person in Plaintiff's  
13 position would also consider the publicity highly offensive.

14 147. The Cowpet Bay West Condominium Board knew, or acted with reckless disregard  
15 of the fact, that Plaintiff would consider the publicity highly offensive and that a reasonable person  
16 in Plaintiff's position would consider the publicity highly offensive.

17 148. The private information, Plaintiff's medical diagnosis and Plaintiff's emotional support  
18 animal's registration were not of legitimate public concern. The private information did not have  
19 a substantial connection to a matter of legitimate public concern.

20 149. Plaintiff was harmed; and

21 150. That Defendant Cowpet Bay West Condominium Board 's conduct was a substantial  
22 factor in causing Plaintiff's harm.

24 **COUNT XVII: INVASION OF PRIVACY:**  
25 **PUBLIC DISCLOSURE OF PRIVATE FACTS**  
(Max Harcourt, Lance Talkington, Alfred Felice)

26 151. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
27 re-stated, wholly, in the Count.

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3       152. Defendants Max Harcourt, Lance Talkington and Alfred Felice publicized private  
4 information by discussing publicly Plaintiff's application for a reasonable accommodation including  
5 Plaintiff's medical diagnosis and the certification for Plaintiff's emotional support animal on the  
6 blog.

7       153. Plaintiff considered the publicity of her private information highly offensive and a  
8 reasonable person in Plaintiff's position would consider the publicity highly offensive.

9       154. Plaintiff's medical diagnosis and Plaintiff's certification for her emotional support  
10 animal are not of legitimate public concern and or did not have a substantial connection to a matter  
11 of legitimate public concern.

12       155. Defendants Alfred Felice, Lance Talkington and Max Harcourt knew, or acted with  
13 reckless disregard of the fact, that a reasonable person in Plaintiff's position and or Plaintiff would  
14 consider the publicity highly offensive. Defendants' actions were done solely to harass Plaintiff and  
15 to frustrate Plaintiff's efforts in requesting and obtaining a reasonable accommodation for her  
16 emotional support dog.

17       156. Plaintiff was harmed; and

18       157. Defendants Alfred Felice, Lance Talkington and Max Harcourt's conduct was a  
19 substantial factor in causing Plaintiff's harm.

20

21                   **COUNT XVIII: INVASION OF PRIVACY: WRONGFUL INTRUSION**

22       158. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
23 re-stated, wholly, in the Count.

24       159. Plaintiff had a reasonable expectation of privacy in the Cowpet Bay West  
25 Condominium Association business office when she submitted her application for reasonable  
26 accommodation. Plaintiff expected that the application including her medical diagnosis and  
27 information about her dog certification would be kept private.

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3      160. Defendants Lance Talkington, Max Harcourt and Alfred Felice intentionally intruded  
4      in Plaintiff's privacy.

5      161. This intrusion was done solely for the purpose of discrediting and intimidating  
6      Plaintiff to prevent her from pursuing a request for reasonable accommodation for Plaintiff's  
7      emotional support dog.

8      162. Defendants intrusion was highly offensive to Plaintiff and would be highly offensive  
9      to a reasonable person in Plaintiff's position.

10     163. As a result of Defendants' conducts Plaintiff was harmed and Defendants' conducts  
11    were a substantial factor in causing Plaintiff's harm.

12

13     **COUNT XIV: INVASION OF PRIVACY: FALSE LIGHT**

14     164. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
15    re-stated, wholly, in the Count.

16     165. Defendants publicize information or material that showed Plaintiff in a false light on  
17    the blog and in emails.

18     166. Plaintiff considers the portrayal of her on the blog and in email in a false light to be  
19    highly offensive and a reasonable person in Plaintiff's position would find the publication to be  
20    highly offensive.

21     167. Defendants intended the publication to create a false impression of Plaintiff to coerce  
22    Plaintiff into dropping her request for reasonable accommodation.

23     168. Defendants acted with reckless disregard for the truth because their actions were  
24    motivated by intimidating Plaintiff into backing away from her request for reasonable  
25    accommodation.

26     169. As a result of Defendants' actions Plaintiff suffered harm.

27     170. Defendants' conducts were a substantial factor in causing harm to Plaintiff.

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3                    **COUNT XX: INVASION OF PRIVACY**

4      171. Plaintiff incorporates all proceeding paragraphs herein by reference as though fully  
 5      re-stated, wholly, in the Count.

6      172. Defendants Cowpet Bay West Condominium Association and Cowpet Bay West  
 7      Condominium Board invaded Plaintiff's privacy.

8      173. Plaintiff had a reasonable expectation of privacy that her application for a reasonable  
 9      accommodation and the content of the application would not be made public when she submitted  
 10     the application to Cowpet Bay West Condominium Association business office.

11     174. Instead, the content of Plaintiff's application was shared with Cowpet Bay West  
 12     Association members who are not members of the Cowpet Bay West Condominium Board.

13     175. As a result, Plaintiff's private information was posted on the blog and was the topic  
 14     of several blog entries for more than four months.

15     176. As a result of the publication, Plaintiff was mocked and was ostracized from the  
 16     community.

17     177. Plaintiff's private information was not of legitimate public concern and or did not  
 18     have substantial connection to a matter of legitimate public concern.

19     178. Defendants knew that the publication would be considered highly offensive by  
 20     Plaintiff and that Defendant acted with reckless disregard that a reasonable person in Plaintiff's  
 21     position would consider the publicity highly offensive. Defendants intended for the publication to  
 22     be highly offensive so that Plaintiff could abandon her reasonable accommodation application.

23     179. Plaintiff was harmed and Defendants' conduct are a substantial factor in causing  
 24     Plaintiff's harm.

25                    **WHEREFORE, THE PREMISES CONSIDERED, PLAINTIFF PRAYS:**

26     A. That this Court declare that by its acts and/or omissions and practices, the Defendants  
 27     have violated rights secured to Plaintiff by the FHAA, the ADA, and other public

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3 laws and policies of the United States and the Territory of the U.S. Virgin Islands.

4 B. That this Court order Defendants to make Plaintiff whole, insofar as she was  
5 adversely affected by Defendants' discriminatory practices by awarding damages,  
6 including interest in an amount to be shown at trial, and other affirmative relief.

7 C. That the Court grant compensatory and punitive damages.

8 D. That the Court grant Plaintiff her attorney's fees, costs and disbursements.

9 E. That the Court grant additional relief as the Court deems just and proper.

10 **JURY TRIAL IS DEMANDED.**

11  
12  
13 Respectfully submitted,

14 **LAW OFFICES OF KARIN A. BENTZ, P.C.**

15 Dated: April 9, 2012

16 /s/ Karin A. Bentz  
17 **KARIN A. BENTZ, ESQ.**  
18 **JULITA K. de LEÓN, ESQ.**  
19 5150 Dronningens Gade, Suite 8  
St. Thomas, Virgin Islands 00802  
Telephone: 340-774-2669  
Telecopier: 340-774-2665  
E-mail: kbentz@virginalaw.com

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4                    **VERIFICATION**

5      TERRITORY OF THE VIRGIN ISLANDS         )  
6    ) ss  
7      DISTRICT OF ST. THOMAS & ST. JOHN         )

8

9      I, Judith Kromenhoek , having first been sworn under oath and according to law, depose  
and state that:

10     1. I am the Plaintiff herein:

11     2. I have read the foregoing Verified Complaint and know the contents therein to be true to  
my knowledge and belief.

13     Dated: March 28, 2012

  
Judith Kromenhoek

16     SWORN AND SUBSCRIBED before me, a Notary Public, this 28<sup>th</sup> day of  
17     MARCH, 2012.

  
\_\_\_\_\_  
NOTARY PUBLIC

20     My Commission Expires:

Karin A. Bentz, Esq., Notary Public  
My Commission Expires: January 6, 2014  
LLP: LNP 001-10

22     SEAL

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24  
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